

Plymouth City Council

Subject: Licensed Private Hire Driver – Review of Licence Driver Status

Committee: Taxi Licensing Committee

Date: 28 March 2013

Cabinet Member: Councillor Coker

CMT Member: Anthony Payne (Director for Place)

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Ref: ERS/LIC/MTS/dsg

Key Decision: No

Part: I

Purpose of the report:

For Members of the Committee to consider the review of the Private Hire drivers licence held by Mr David Stephen Gilbery, having due regard for the information contained within the report, any representations made by him and the Taxi Licensing Policy of the Council.

Corporate Plan 2012 – 2015:

This report links to the delivery of the City and Council priorities.
In particular: Provide value for Communities.

Implications for Medium Term Financial Plan and Resource Implications: Including finance, human, IT and land

Not applicable.

Other Implications: e.g. Child Poverty, Community Safety, Health and Safety, Risk Management and Equality, Diversity and Community Cohesion:

Members should be aware that Section 17 of the Crime Disorder Act 1998 put a statutory duty on

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Originating SMT Member													
Has the Cabinet Member(s) agreed the contents of the report? Yes / No													

Report

1. David Stephen Gilbery is a licensed Private Hire driver, having been first granted a driver's licence by this Council on 21 November 2003. This licence was subject to periodic renewal until he transferred to a Hackney carriage driver licence on the 17 September 2007. This licence expired without renewal on the 20 November 2007. Mr Gilbery re-applied for a Private Hire driver licence which was granted on 7 November 2008 and his current licence is due to expire on 11 December 2013.
2. On the 12 December 2012 David Gilbery attended an appointment at the Civic Centre to renew his Private Hire driver licence and completed a renewal of licence application form for that purpose. Section 3 of that form requires the disclosure of any previous convictions, and in the space provided Mr Gilbery has entered information relating to motoring convictions he received in August 2009 and December 2010. Below this disclosure the following question is asked; **'Has/have this/these offence(s) previously been reported to the licensing section?'** Following this question two boxes are supplied to indicate an answer, a box for 'Yes' and a box for 'No'. Mr Gilbery has placed a cross in the 'Yes' box indicating this to be his answer.
3. When Mr Gilbery attended his appointment to renew his licence he produced his DVLA driving licence for examination, which revealed the following endorsements:

Convicted on 10 August 2009 for an offence of exceeding the speed limit on 02 February 2009. He was fined £60 and his licence endorsed with three penalty points.

Convicted on 17 December 2010 for an offence of exceeding the speed limit on 12 June 2010. He was fined £350 and his licence endorsed with four penalty points.

Mr Gilbery therefore has four live penalty points endorsed on his DVLA licence.
4. An examination of the driver file belonging to Mr Gilbery revealed that the speeding conviction received on the 10 August 2009 had been notified to the licensing section on 24 September 2009. However, there is no record of the conviction on the 17 December 2010 being notified as required by condition of licence.
5. There are standard conditions attached to the grant of a Private Hire driver licence for all licence holders. Condition 1(c) requires the licence holder to notify the Licensing Unit in writing within 7 days of receiving a conviction in a court of law in respect of any motoring offences following the grant of a licence. It would appear that this condition of licence has been breached by the failure of Mr Gilbery to inform the Licensing Unit of the motoring conviction received on the 17 December 2010 and the late notification of the August 2009 conviction.

6. Members are made aware that during his term as a licence holder, Mr Gilbery has appeared before the committee on the 19 July 2005 and 20 December 2005 in respect of failing to comply with licensing conditions for which his private hire driver's licence was suspended on each occasion. He had also been due to appear before the committee in respect of further breach of licence conditions in November 2007 but Mr Gilbery failed to attend and his licence subsequently expired without renewal and so the matter was not progressed.
7. In respect of the Private Hire driver licence, the actions open to Members are those contained in Section 19(1) (b) of the Plymouth City Council Act 1975 which empowers the Council to suspend, revoke or refuse to renew the licence of a driver of a Private Hire vehicle for any other reasonable cause.
8. In reaching their decision, Members must have regard to the Council's Hackney Carriage and Private Hire Licensing Policy. The relevant parts of the Council's policy are detailed below:

General Policy

The Council's Hackney Carriage and Private Hire licensing policy states that the Council will carry out its Hackney Carriage and Private Hire licensing function with a view to promoting stated objectives. Members must therefore ensure that they consider those objectives when forming a decision.

The Licensing objectives are as follows:

1. Safety and health of drivers and the public – e.g.
 - Consideration of history of convictions and cautions
 - Driver training, qualification and performance
 - Health and Fitness to fulfil the role
 - Crime prevention measures
2. Vehicle safety, comfort and access
3. To prevent crime and disorder and to protect consumers – e.g.
 - Commitment to work with the police and licensing authorities
4. To encourage environmental sustainability

Chapter 2. – Conditions of Licence

Paragraph 12.3 – Plymouth City Council Hackney Carriage and Vehicle Licensing Policy states that when considering whether someone is 'fit and proper' the authority will consider amongst other things

- Relevant skills
- Knowledge
- Experience
- Qualifications
- Criminal record (as to relevance of offences)
- Previous history as a licence holder

Paragraph 18.2 - requires that in considering whether a person is “fit and proper” each case is considered on its own merits.

Chapter 4 – Enforcement Policy

Paragraph 8.1 - Allows the Council to revoke any licence where it is satisfied that the licence holder is no longer, for example, ‘fit and proper’ or where a breach of condition of licence has been established.

Paragraph 8.2 - Requires that when considering revocation, the Committee will take into account all relevant facts and circumstances including licensing objectives, and any other information thought pertinent to the matter being considered.

Paragraph 10.2- Gives the Committee the discretion to direct a driver appearing before them to complete further training or retraining, should the drivers’ suitability to retain a licence be called into question.

Guidelines on the Relevance of Convictions

Paragraph 1 - states that the disclosure of a Criminal Record will not automatically prevent any applicant from obtaining a licence, unless it is considered that the conviction renders the applicant unsuitable. In making its decision the Council will consider the relevance of any offence, the seriousness of the offence, the length of time since the offence occurred and any pattern of offending behaviour.

Paragraph 2 - states that motoring offences, are relevant offences when considering the suitability of a person to hold or retain a licence.

Paragraph 8 – States that any driver who receives a conviction within their license period will be referred to the Taxi Licensing Committee in order that the status of their licence may be reviewed. The above guidance will be followed in such cases.

9. Mr Gilbery obtained the NVQ Level 2 driver qualification in 2009.
10. Mr Gilbery has been invited to attend this Licensing Committee in order that the matters contained within this report may be considered.